



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of : **Mail Stop Amendment**
John MacNeil et al. : Group Art Unit 2813
Application No. 10/618,636 : Examiner Thanhha S. Phan
Filed July 15, 2003 :

Title: METHODS AND APPARATUS FOR FORMING A FILM ON A SUBSTRATE

RESPONSE TO ELECTION/RESTRICTION

U.S. Patent and Trademark Office
Customer Service Window, **Mail Stop Amendment**
Randolph Building
401 Dulany Street
Alexandria VA 22314

Sir:

In response to the Office Action dated October 3, 2005, Applicants elected the alleged "Species B" identified at page 2 of the Office Action. Claims 10, 11, 13, 17, 19-22 and 26-28 correspond to the elected Species B (as best understood by the Applicants).

The election is with traverse.

As presented in the Office Action, the alleged Species A and B are simply verbatim recitations of pending claims 23 and 26 of the application. This is clearly contrary to Patent Office practice as dictated by **M.P.E.P. 806.04(e)**:

"Claims are definitions of inventions. Claims are never species. Claims may be restricted to a single

disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*), or a claim may include two or more of the disclosed embodiments within the breadth and scope of definition (and thus be designated a *generic or genus claim*). *Species are always the specifically different embodiments.*" (Emphasis in original.)

Since the Office Action defines the alleged species in terms of pending claims, the election of species requirement is improper and is therefore traversed.

Respectfully submitted,

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Date: October 17, 2005